

B-260369

June 15, 1995

John S. Nabil, Director  
Department of Defense  
Defense Finance and Accounting Service  
Denver Center  
6760 E. Irvington Place  
Denver, Colorado 80279

Dear Mr. Nabil:

This responds to your request that relief be granted under 31 U.S.C. § 3527(c) to three officers at Hickam Air Force Base, Hawaii: Captain Jeffrey K. Popham, Chief Financial Services Officer, Mr. Clyde Rabideau, Deputy Financial Services Officer, and Technical Sergeant Albert E. Jones, Military Pay Customer Service, for an improper payment totaling \$1,200. For the reasons stated below, we grant the requested relief for Captain Popham and Mr. Rabideau<sup>1</sup>.

The events surrounding the improper payment began on December 29, 1992 when a

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<sup>1</sup>Based upon your submission, we see no indication that Technical Sergeant Jones is an accountable officer for purposes of 31 U.S.C. § 3527(c). An accountable officer is any government officer or employee who by reason of his employment is responsible for or has custody of government funds. 62 Comp. Gen. 476, 479 (1983); 59 Comp. Gen. 113, 114 (1979); B-188894, Sept. 29, 1977. There is no indication that Technical Sergeant Jones had custody of or responsibility for the funds based upon his involvement or by virtue of his position to make him accountable for purposes of 31 U.S.C. § 3527(c). Nor are we aware of any agency regulations or personnel records that make him personally accountable for the funds at issue here. Cf. B-241856.2, Sept. 23, 1992. We, therefore, do not grant or deny relief for Technical Sergeant Jones. However, pursuant to 31 U.S.C. § 3526(g), we are suspending the statute of limitations with regards to this matter, in case your agency, upon further consideration, concludes that Technical Sergeant Jones is an accountable officer.

military pay voucher P-314 was brought to the Paying & Collecting Office (P&C) at Hickam Air Force Base, Hawaii, as part of the normal check processing. The voucher specified that \$27,697.26 was due Staff Sergeant Terrence M. Fortin for Special Separations Bonus (SSB) separation pay. P&C produced a check for that amount payable to SSgt. Fortin. Subsequent to producing that check but prior to his separation date, SSgt. Fortin advised the finance office that he wanted to be enrolled in the Montgomery G.I. Bill<sup>2</sup>. According to standard operating procedures, a separating military member's SSB was to be reduced by \$1,200 if that member chose to be enrolled in the Montgomery G.I. Bill. The member was to be issued a check in the amount of his SSB less \$1,200. A separate check in the amount of \$1,200 was to be issued on the member's behalf for the Montgomery G.I. Bill, and sent to the Defense Finance and Accounting Service-Denver Center.

In this case, those procedures were not followed. When SSgt. Fortin advised the finance office of his desire to enroll in the Montgomery G.I. Bill, the original check for the full SSB should have been canceled, and a new check should have been issued for the reduced amount of \$26,497.26 (SSB of \$27,697.26 less \$1,200). The cashier, Ms. Diane Lerner, at the finance office did not cancel the original SSB check. A check for the full amount of SSB was issued to SSgt. Fortin and a payment of \$1,200 was made for the Montgomery G.I. Bill. As a result, SSgt. Fortin received a check that was overstated by \$1,200.

The loss was not discovered until February 10, 1993, when the Treasury Department sent a TFS 5206 reflecting the \$1,200 overdraft. On February 11, 1993, the loss was processed in the accountability records, and aggressive collection action was taken to recoup the amount of the overpayment from SSgt. Fortin.

You have determined that Ms. Lerner, the cashier who made the improper payment, failed to follow established procedures and have not requested that she be relieved. You have recommended that Captain Popham, Mr. Rabideau, and Technical Sergeant Jones be relieved of their liability. Under 31 U.S.C. § 3527(c), this Office is authorized to relieve a disbursing officer from liability for an improper payment when the payment was not the result of bad faith or lack of reasonable care by the official.

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<sup>2</sup>The Montgomery G.I. Bill is an educational assistance program used to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service. Pub. L. 98-525, Title VII, §701, Oct. 19, 1984, 98 Stat. 2553, as amended Pub. L. 100-48, § 2, June 1, 1987, 101 Stat. 331.

Generally, a disbursing officer is liable for improper payments made by his subordinates. 62 Comp. Gen. 476, 480 (1983). In cases where subordinates rather than the disbursing officer actually disburse the funds, we have granted relief upon evidence that the supervisor properly supervised his subordinates by maintaining an adequate system of procedures and controls to avoid errors and took steps to ensure implementation of these controls. 62 Comp. Gen. at 480; B-238863, July 11, 1991; B-221453, June 18, 1986.

Your submission shows that Capt. Popham and Mr. Rabideau maintained adequate procedures and controls over the funds they were accountable for and that they enforced those procedures. The record before us supports the conclusion that the improper payment resulted from Ms. Larner's lack of due care by not following standard procedures, and not from Capt. Popham's or Mr. Raideau's lack of reasonable care in supervising Ms. Larner.

Accordingly, we grant relief to Capt. Popham and Mr. Rabideau. If further collection action against SSgt. Fortin does not result in full payment of the \$1,200, any outstanding amount should be collected from Ms. Larner.

Sincerely yours,

Gary Keplinger  
Associate General Counsel